

APPEAL NO. 031444
FILED JULY 24, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 1, 2003. The hearing officer determined that the appellant's (claimant) compensable injury of _____, does not include an injury to the cervical spine.

The claimant appealed, citing evidence in her favor and asserting that the respondent (carrier) offered no evidence that the injury did not occur as she testified. The carrier responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant, a health care worker, sustained a compensable injury on _____, when she fell and struck her head on a chair while restraining a patient. The claimant was treated for a closed head injury and headaches. It is relatively undisputed that there were no documented complaints of a neck injury or left upper extremity weakness until May 20, 2002. The claimant maintains her headaches were really caused by a neck injury.

There was conflicting medical evidence and a designated doctor, in an examination on March 12, 2002, said that the claimant had no cervical symptoms for four months after the injury and that he doubts "that a neck injury in _____, without any problems 4 months later, would now be related." Similarly a report dated March 27, 2003, from a carrier-required medical examination doctor can be read to support the hearing officer's decision. There was other evidence and testimony from the treating chiropractor to the contrary. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Ins. Co. v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **EMPLOYERS INSURANCE OF WAUSAU, A MUTUAL COMPANY** and the name and address of its registered agent for service of process is

**RICK KNIGHT
105 DECKER COURT, SUITE 600
IRVING, TEXAS 75062.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge